

**Commonwealth of Massachusetts  
Executive Office of Health and Human Services**

**NOTICE OF PUBLIC HEARING**

Pursuant to the authority of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, the following six remote public hearings will be held on Friday, October 22, 2021, at the respective times listed below, relative to the adoption of amendments to:

- 1. 9:00 a.m.: 101 CMR 415.00: Rates for Community-based Day Support Services.** The service rates established in 101 CMR 415.00 are being updated to include an increase by a cost adjustment factor of 0.74%. The proposed rates are established in accordance with model budgets with the following updates: direct care staffing assumptions contain higher skill levels consistent with day program needs; a Community Connector/Navigator position is being added to build relationships and navigate opportunities with community organizations for more meaningful, community-driven activities; individual resources for community activities are being added (i.e., gym, museum memberships); resources are being allocated for technology essential for site-less day programs (i.e., tablets, phones, software licenses); changes to transportation reflect increases in community trips during the day; and a new CBDS “Without Walls” rate will be available for programs that operate entirely in community-based settings. This model includes transporting the individual to and from day programs participating in activities entirely in the community. The total projected annualized cost to state government from the increase in rates is \$13,365,973, which represents an increase of 11.74% over projected FY22 spending of approximately \$113.8 million. These costs will not be realized until January 1, 2022, at which point the FY22 fiscal impact to state government will be an increase of \$6,682,987 over existing rates.
- 2. 9:30 a.m.: 101 CMR 419.00: Rates for Supported Employment Services.** The service rates established at 101 CMR 419.00 are being updated to include an increase by a cost adjustment factor of 0.74%. The programmatic expenses have been benchmarked to the FY19 Uniform Financial Statements and Independent Auditor’s Report (UFR). The additional technology costs have been incorporated into the model budgets based on the purchaser’s recommendation. The tax and fringe rate has been benchmarked to 22.40% and the administrative allocation has been benchmarked to 12%. The total projected annualized cost to state government from the increase in rates effective January 1, 2022, is approximately \$6.2 million, which represents an increase of 12.60% over projected FY22 spending of approximately \$49.4 million. These costs will not be realized until January 1, 2022, at which point the FY22 fiscal impact to state government will be \$3.1 million for the increase to existing rates.
- 3. 10:00 a.m.: 101 CMR 422.00: General Programs - Disability Services.** The proposed amendments to 101 CMR 422.00 for general programs – disability services include an increase by a cost adjustment factor of 1.06% and incorporate salary benchmarks derived from the Bureau of Labor Statistics (BLS) median salary, 2020 edition. Where applicable, the FTEs for direct care have been split between direct care and direct care III positions to promote flexibility in the position. The rates for general programs - disability services have been updated to incorporate an employer and employee contribution required by the Massachusetts paid family and medical leave law. The tax and fringe rate has been

benchmarked to 22.40% and the administrative allocation has been benchmarked to 12%. The mobile eye clinic rate is being removed from this regulation as this service is no longer purchased. Finally, the separate workforce initiative rate has been removed from the regulation because the workforce initiative goal of the rate review has been met with the incorporation of BLS benchmarking into the rates. The total annualized cost to state government from the increase in rates proposed by this regulation is approximately \$298,445, which represents an increase of approximately 4.39% over FY20 rate spending of approximately \$6.8 million. These costs will not be realized until January 1, 2022, at which point the FY22 fiscal impact to state government will be \$149,222 for the increase to existing rates.

**4. 10:30 a.m.: 101 CMR 417.00: Rates for Certain Elder Care Services.** The rates for certain elder care services are being updated to include an increase by a cost adjustment factor of 1.06% and to incorporate salary benchmarks derived from the Bureau of Labor Statistics (BLS) median salary, May 2020 edition. The rates for these services have been updated to incorporate an employer and employee contribution required by the Massachusetts paid family and medical leave law, the tax and fringe rate has been benchmarked to 22.40%, and the administrative allocation has been benchmarked to 12%. Lastly, the programmatic costs have been benchmarked to the FY19 Uniform Financial Reports (UFRs) for these services. The total projected annualized cost to state government from the increase in rates under the proposed regulation is \$18.2M, which represents an increase of 16.87% over the current spending of approximately \$108M. These costs will not be realized until January 1, 2022, at which point the FY22 fiscal impact to state government will be approximately \$9.1M for the increase to existing rates.

**5. 11:30 a.m.: 101 CMR 416.00: Rates for Clubhouse Services.** The rates for clubhouse services are being updated to include an increase by a cost adjustment factor of 1.06%, and have been updated to incorporate an employer and employee contribution required by the Massachusetts paid family and medical leave law. All staff salaries have been benchmarked to the Massachusetts Bureau of Labor Statistics (BLS) median wages as dated May 2020. The direct care staff title and salary have been retitled to direct care III positions to promote flexibility in the position. The tax and fringe rate has been benchmarked to 22.40% and the administrative allocation has been benchmarked to 12%. Finally, the separate workforce initiative rate has been removed from the regulation because the workforce initiative goal of the rate review has been met with the incorporation of BLS benchmarking into the rates. The total annualized cost to state government from the increase in rates amended by this regulation is \$379,024, which represents an increase of approximately 2% over FY20 rate spending of approximately \$23.4 million. These costs will not be realized until January 1, 2022, at which point the FY22 fiscal impact to state government will be \$189,512 for the increase to existing rates.

**6. 12:00 p.m.: 101 CMR 349.00: Rates for Early Intervention Program Services.** The proposed amendments to the rates for Early Intervention program services include an increase by a cost adjustment factor (CAF) of 1.41%. In addition to the CAF, the proposed rates incorporate staff salaries benchmarked to the most recent, May 2020, Bureau of Labor Statistics; paid time off calculations in the rates have been benchmarked to the Purchase of Service, Chapter 257 standards; and there are updates to the tax and fringe rate, occupancy, consultant services, other program expenses, and supplies and materials, which are based on the FY20 Uniform Financial Reports. The proposed rates would be effective for dates of

service on or after July 1, 2022. The total estimated FY23 annualized fiscal impact of the proposed amendments is \$2,653,099 (based upon FY20 spending of \$69,144,678); of which the estimated fiscal impact to the MassHealth program is \$1.4M and the estimated fiscal impact to DPH is \$1.2M. These amendments represent an increase of approximately 3.84% over FY20 spending.

The proposed amended regulations contain rates effective for dates of service on or after January 1, 2022, except for 101 CMR 349.00, which contains rates effective for dates of service on or after July 1, 2022. There is no fiscal impact on cities and towns.

To register to testify at any of the hearings and to get instructions on how to join the hearing online, go to [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings). To join the hearing by phone, call (646) 558-8656 and enter meeting ID 935 397 8200# when prompted.

You may also submit written testimony instead of, or in addition to, live testimony. To submit written testimony, please email your testimony to [ehs-regulations@mass.gov](mailto:ehs-regulations@mass.gov) as an attached Word or PDF document or as text within the body of the email with the name of the regulation in the subject line. All written testimony must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171. Written testimony will be accepted through 5:00 p.m. on Friday, October 22, 2021.

To review the current drafts of the regulations, go to [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings) or request a copy in writing from MassHealth Publications, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171. To view or download supporting materials, go to [www.mass.gov/service-details/proposed-regulations-supporting-materials](http://www.mass.gov/service-details/proposed-regulations-supporting-materials).

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at [ADAAccommodations@mass.gov](mailto:ADAAccommodations@mass.gov) or by phone at (617) 847-3468 (TTY: (617) 847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a final, revised version of the proposed actions taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings).

October 1, 2021